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I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: November 22, 2010

Name: John C. Freeman, Registration No. 34,483 Signature: 

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: George V. Guyan et al.

Appln. No.: 09/305,146

Filed: May 4, 1999

For: Component Based Information
Linking During Claim
Processing

Attorney Docket No: 10022/252

Examiner: Sana A. Al Hashemi

Art Unit: 2156

Confirmation No.: 1663

REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(d)

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On October 19, 2010, a Notice of Allowance was mailed regarding U.S. Patent Application Serial No. 09/305,146 ("the '146 application"). Pursuant to 35 U.S.C. § 154(b), the United States Patent and Trademark Office ("the PTO") calculated a patent term adjustment of **one thousand one hundred eighteen (1118) days**.

Applicants believe that the patent term adjustment should be **one thousand one hundred forty one (1141) days**. For the reasons stated herein, Applicants respectfully request reconsideration of this patent term adjustment pursuant to 37 C.F.R. 1.705(b). Please charge the petition fee of \$200.00 pursuant to 37 C.F.R. § 1.18(e) to Deposit Account No. 23-1925. Please

charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925.

The PTO calculated the patent term adjustment for the '146 application based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system's Patent Term Adjustment History, attached as Exhibit A. Applicants believe that errors and/or omissions in the calculation have resulted in an incorrect patent term adjustment for the '146 application as described in detail below. Pursuant to 37 C.F.R. §1.705(b), Applicants file this request for reconsideration concurrently with the filing of the Issue Fee regarding the '146 application. Note that the '146 application is not subject to a terminal disclaimer.

Applicants agree with all calculations listed in the Patent Term Adjustment History (Exhibit A) except for the following calculations which are discussed below:

Increase in Period of Adjustment pursuant to 37 C.F.R. § 1.704

Period of adjustment pursuant to 37 C.F.R. § 1.703(a)(3)

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(3) is the number of days in the period beginning on the day ("the four month date") after that date that is four months after the date a reply in compliance with 37 CFR § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. § 132, or a notice of allowance under 35 U.S.C. § 151, whichever comes first.

In the present application, Applicants filed a Request for Continued Examination (RCE) on **October 7, 2002** as evidenced by the Image File Wrapper document attached as Exhibit B. Therefore the 4 month date for receiving an Office Action should prosecution be reopened was **February 7, 2003**. A non-Final Office Action was mailed on March 18, 2003. Accordingly, there

should be a delay of **thirty nine (39) days** on the part of Patent Office for failing to mail the non-Final Office Action by **February 7, 2003**. Currently, the Patent Office has calculated **zero (0) days** of delay on its part regarding this matter. Thus, the Patent Office has calculated **39 days of too little delay** on its part regarding this matter.

Note that the Patent Office erroneously assigned a filing date of January 9, 2003 to the RCE filed on October 7, 2002 as evidenced by the Image File Wrapper document of Exhibit B and the express mail label of the RCE showing a date of express mailing of October 7, 2002 (see Exhibit C).

Period of adjustment pursuant to 37 C.F.R. § 1.704(b)

Pursuant to 37 C.F.R. § 1.704(b), the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date (the 3 month date) that is three months after the date of mailing or transmission of an Office communication notifying the applicant of a rejection, objection, etc., and ending on the date a corresponding reply was filed.

In the present application, an Office Action was mailed on **May 6, 2002** as evidenced by the Image File Wrapper document attached as Exhibit B. Therefore the 3 month date for filing a reply was **August 6, 2002**. As mentioned previously, an RCE was filed on **October 7, 2002**. In calculating the Rule 704(b) delay, the Patent Office made the mistake of applying the incorrect date of January 9, 2003 mentioned previously. When the period of adjustment is correctly determined from August 6, 2002 to October 7, 2002 a delay of **62 days** on the part of Applicants is calculated instead of the **156 days** calculated by the Patent Office. Thus, the Patent Office has calculated **94 days of too much delay** on the part of the Applicants.

Reduction in Period of Adjustment pursuant to 37 C.F.R. § 1.704**Period of adjustment pursuant to 37 C.F.R. § 1.703(a)(2)**

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(2) is the number of days in the period beginning on the day (“the four month date”) after that date that is four months after the date a reply in compliance with 37 CFR § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. § 132, or a notice of allowance under 35 U.S.C. § 151, whichever comes first.

In the present application, Applicant filed a response on **June 19, 2003** as evidenced by the Image File Wrapper document attached as Exhibit B. PAIR incorrectly lists the date as June 18, 2003. Therefore the 4 month date for receiving an Office Action should prosecution be reopened was **October 19, 2003**. A non-Final Office Action was mailed on November 13, 2003 as evidenced by the Image File Wrapper document attached as Exhibit B. Accordingly, there should be a delay of **twenty five (25) days** on the part of Patent Office for failing to mail the non-Final Office Action by **October 19, 2003**. Currently, the Patent Office has calculated **twenty six (26) days** of delay on its part regarding this matter since it is based on the erroneous date of June 18, 2003. Thus, the Patent Office has calculated **1 day of too much delay** on its part regarding this matter.

Period of adjustment pursuant to 37 C.F.R. § 1.703(a)(4)

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(3) is the number of days in the period beginning on the day (“the four month date”) after that date that is four months after the date an appeal brief in compliance with 37 CFR § 41.37 was filed and ending on the date of mailing of any of an examiner’s answer under 37 CFR § 41.39, an action under 35 U.S.C. § 132, or a notice of allowance under 35 U.S.C. § 151, whichever comes first.

In the present application, Applicants filed an Appeal Brief on July 24, 2006. The July 24th Appeal Brief was deemed defective by the Patent Office on October 13, 2006 (see Image File Wrapper document of Exhibit B and the corresponding paper in PAIR) and so Applicants filed a second Appeal Brief on November 13, 2006. Therefore the 4 month date for receiving an Examiner's Answer in response to the second Appeal Brief was **March 13, 2007**. An Examiner's Answer was mailed on July 30, 2007 in response to the second Appeal Brief. Accordingly, there should be a delay of **one hundred thirty nine (139) days** on the part of Patent Office for failing to mail the Examiner's Answer by **March 13, 2007**. Currently, the Patent Office has calculated **two hundred forty eight (248) days** of delay on its part regarding this matter since it is incorrectly based on the July 24, 2006 filing of the non-compliant Appeal Brief. Thus, the Patent Office has calculated **109 days of too much** delay on its part regarding this matter.

Total patent term adjustment

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delays pursuant to 37 C.F.R. § 1.704. Thus, according to our calculations, we believe that the patent term adjustment should be increased by **(39+94) days - (1 + 109) days = 23 days**. Thus, the patent term adjustment should be **one thousand one hundred forty one (1141) days** instead of the **one thousand one hundred eighteen (1118) days** indicated on the Issue Notification attached as Exhibit D.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicants' Attorney respectfully requests the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S.

Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact the undersigned attorney for the Applicants' Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John C. Freeman', is written over a horizontal line.

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